

United States Senate

WASHINGTON, DC 20510

October 2, 2024

The Honorable Merrick Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, D.C. 20530

The Honorable Lisa Monaco
Deputy Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, D.C. 20530

Dear Attorney General Garland and Deputy Attorney General Monaco:

We write regarding the Boeing Company's ("Boeing" or "the company") corporate culture that has promoted short-term profit over passenger safety, and the Department of Justice's (DOJ or "the Department") failure to change this culture because of its continued refusal to criminally prosecute responsible individuals. Serious safety issues continue to appear with Boeing planes, despite DOJ's past efforts. In the past six years, Boeing has cycled through three different CEOs, each promising to improve safety at the company.¹ Meanwhile, Boeing machinists, Boeing managers, and the National Transportation Safety Board (NTSB) continue to highlight ongoing safety concerns at the company. In the latest example, just last week, the NTSB was forced to issue "urgent safety recommendations" for Boeing's 737 aircraft line because of problems with the rudder system.² It is past time for DOJ to take action against corporate executives at Boeing who are responsible for putting passengers and workers at risk in violation of federal laws and regulations.

Boeing's Felony Plea Over Two Fatal Plane Crashes Lacks Real Accountability

For years, the federal government has accused Boeing of putting profits over passenger safety,³ without pursuing full accountability from the company or the company's executives directly responsible for compromising passenger safety. In 2018 and 2019, 346 people died when two Boeing 737 MAX aircraft crashed.⁴ In both fatal crashes, a Boeing 737 MAX part that impacts

¹ Boeing, "Boeing Chairman, President and CEO Dennis Muilenburg Announces Changes to Sharpen Company Focus on Product and Services Safety," press release, September 30, 2019, <https://boeing.mediaroom.com/2019-09-30-Boeing-Chairman-President-and-CEO-Dennis-Muilenburg-Announces-Changes-to-Sharpen-Company-Focus-on-Product-and-Services-Safety>; BBC, "Boeing boss admits culture 'far from perfect'," Charlotte Edwards, June 18, 2024, <https://www.bbc.com/news/articles/cd11dd6e4550>; Boeing, "A Message from CEO Kelly Ortberg to Boeing Employees: Our Work Together Begins," press release, <https://boeing.mediaroom.com/news-releases-statements?item=131478>.

² National Transportation Safety Board, "NTSB Issues Urgent Safety Recommendations on Boeing 737 Rudder System," press release, September 26, 2024, <https://www.nts.gov/news/press-releases/Pages/NR20240926.aspx>.

³ New York Times, "Boeing Gives F.A.A. Plan to Address Systemic Quality-Control Issues," Mark Walker and Niraj Chokshi, May 30, 2024, <https://www.nytimes.com/2024/05/30/us/politics/boeing-faa-quality-control-plan.html>.

⁴ New York Times, "Boeing Agrees to Plead Guilty to Felony in Deal With Justice Department," Eileen Sullivan and Danielle Kaye, July 8, 2024, <https://www.nytimes.com/2024/07/08/business/boeing-justice-department-plea-deal.html>.

flight control, the Maneuvering Characteristics Augmentation System (MCAS), was activated during the flight and believed to have played a key role.⁵

In 2021, the Department of Justice deferred prosecution of the company for these crashes, instead negotiating a deal to resolve criminal charges.⁶ Under the January 2021 deal, Boeing agreed to pay a penalty of \$243.6 million (less than 0.5% of Boeing’s 2020 revenue)⁷, pay compensation of \$1.77 billion to Boeing’s airline customers, and establish a \$500 million crash-victim beneficiaries fund.⁸ Boeing also agreed to cooperate with DOJ in any ongoing or future investigations or prosecutions, report any evidence or allegation of a violation of U.S. fraud laws, and strengthen its compliance program and enhance the program’s reporting requirements.⁹

In July 2024, Boeing entered into a plea agreement with DOJ after the Department determined that the company violated the terms of the 2021 deal, because it “fail[ed] to design, implement, and enforce a compliance and ethics program to prevent and detect violations of the U.S. fraud laws.”¹⁰ Nevertheless, once again DOJ stopped short of taking Boeing or its executives to trial, although this time it reached a plea agreement with the company. As part of this deal, Boeing agreed to plead guilty to what DOJ has called “the most serious readily provable offense”¹¹: a felony charge of conspiring to defraud the federal government by not disclosing sufficient information about the MCAS.¹² The deal also requires Boeing to pay another \$243.6 million fine and “invest at least \$455 million over the next three years to strengthen its compliance and safety programs.”¹³ In addition, DOJ announced that an independent monitor would oversee Boeing’s safety and quality control procedures for three years.¹⁴ However, the combination of a relatively small fine coupled with a toothless commitment to improve aircraft safety has proven insufficient to effect real change at the company. Indeed, a number of Boeing aircraft safety failures have occurred since the fatal 737 MAX crashes, raising continued concern about Boeing’s top-down culture that prioritizes production speed over passenger safety.

⁵ U.S. Department of Justice, “Boeing Charged with 737 Max Fraud Conspiracy and Agrees to Pay over \$2.5 Billion,” press release, January 7, 2021, <https://www.justice.gov/opa/pr/boeing-charged-737-max-fraud-conspiracy-and-agrees-pay-over-25-billion>.

⁶ *Id.*

⁷ Macrotrends, “Boeing Revenue 2010-2024 | BA,” <https://www.macrotrends.net/stocks/charts/BA/boeing/revenue>.

⁸ U.S. Department of Justice, “Boeing Charged with 737 Max Fraud Conspiracy and Agrees to Pay over \$2.5 Billion,” press release, January 7, 2021, <https://www.justice.gov/opa/pr/boeing-charged-737-max-fraud-conspiracy-and-agrees-pay-over-25-billion>.

⁹ *Id.*

¹⁰ Letter from U.S. Department of Justice to Northern District of Texas District Court, May 14, 2024, <https://assets.law360news.com/1837000/1837302/https-ecf-txnd-uscourts-gov-doc1-177116840027.pdf>.

¹¹ New York Times, “Boeing Agrees to Plead Guilty to Felony in Deal With Justice Department,” Eileen Sullivan and Danielle Kaye, July 8, 2024, <https://www.nytimes.com/2024/07/08/business/boeing-justice-department-plea-deal.html>.

¹² AP, “Boeing accepts a plea deal to avoid a criminal trial over 737 Max crashes, Justice Department says,” David Koenig and Alanna Durkin Richer, July 8, 2024, <https://apnews.com/article/boeing-guilty-plea-crashes-245a38dc6d3082f4dfff1f6f74f274f2>.

¹³ New York Times, “Boeing Agrees to Plead Guilty to Felony in Deal With Justice Department,” Eileen Sullivan and Danielle Kaye, July 8, 2024, <https://www.nytimes.com/2024/07/08/business/boeing-justice-department-plea-deal.html>.

¹⁴ AP, “Boeing accepts a plea deal to avoid a criminal trial over 737 Max crashes, Justice Department says,” David Koenig and Alanna Durkin Richer, July 8, 2024, <https://apnews.com/article/boeing-guilty-plea-crashes-245a38dc6d3082f4dfff1f6f74f274f2>.

Boeing's Culture Disregards Aircraft Safety and Quality Control

Boeing factory workers have described feeling pressure from Boeing to prioritize aircraft production at the expense of passenger safety.¹⁵ According to an internal survey conducted by Boeing in mid-May 2024, one in three respondents reported that schedule pressures caused them to lower their standards.¹⁶ These problems are not new: a representative for the International Association of Machinists and Aerospace Workers has said that Boeing has suffered quality control issues for nearly a decade, as workers have “had extensive issues with safety and quality at the Boeing company going back to 2014, 2016.”¹⁷

Whistleblowers have repeatedly described Boeing's prioritization of production over safety. One whistleblower who worked at Boeing for over 30 years, including seven as a quality manager in Charleston, South Carolina, said that “the environment at Charleston was, it's all about production.”¹⁸ Another Boeing employee who works on aircraft door plugs said Boeing's safety culture was “garbage. Nobody's accountable.”¹⁹ The employee also described how Boeing's culture promoted production above all else: “Here, it's just push-push-push, push-push-push, push-push-push, you know.”²⁰ One Boeing engineer testified about Boeing's safety concerns before Congress earlier this year, saying, “they are putting out defective airplanes.”²¹ The engineer also said that when he raised his concerns to his managers, “I was ignored. I was told not to create delays. I was told, frankly, to shut up.”²² When asked about reporting, safety, and quality concerns, the whistleblower responded, “I have a very, I guess, negative attitude” and

¹⁵ U.S. Senate Committee on Homeland Security & Governmental Affairs Permanent Subcommittee on Investigations, “Preliminary Information from the Subcommittee's Inquiry into Boeing's Safety and Quality Practices,” June 17, 2024, pp. 2, <https://www.hsgac.senate.gov/wp-content/uploads/2024.06.17-PSI-Majority-Staff-Memorandum.pdf>.

¹⁶ U.S. Senate Committee on Homeland Security & Governmental Affairs Permanent Subcommittee on Investigations, “New Details of Boeing's Safety Failures and Pressure to Prioritize Profits,” September 24, 2024, pp. 4, <https://www.hsgac.senate.gov/wp-content/uploads/2024.9.25-PSI-Hearing-FAA-Boeing-Oversight-Majority-Staff-Background-Memo-2.pdf>.

¹⁷ NPR, “NTSB wraps up ‘door plug’ hearing as new Boeing CEO takes over,” David Schaper, August 8, 2024, <https://www.npr.org/2024/08/08/g-s1-16012/ntsb-wraps-up-door-plug-hearing-as-new-boeing-ceo-takes-over>.

¹⁸ U.S. Senate Committee on Homeland Security & Governmental Affairs Permanent Subcommittee on Investigations, “Preliminary Information from the Subcommittee's Inquiry into Boeing's Safety and Quality Practices,” June 17, 2024, pp. 6, <https://www.hsgac.senate.gov/wp-content/uploads/2024.06.17-PSI-Majority-Staff-Memorandum.pdf>.

¹⁹ Wall Street Journal, “What We Learned About Boeing From the Probe Into Alaska Airlines 737 MAX Blowout,” Andrew Tangel, August 7, 2024, <https://www.wsj.com/business/airlines/boeing-alaska-airlines-737-max-blowout-probe-takeaways-f65e9893>.

²⁰ *Id.*

²¹ U.S. Senate Committee on Homeland Security & Governmental Affairs Permanent Subcommittee on Investigations, “Examining Boeing's Broken Safety Culture: Firsthand Accounts,” hearing, April 17, 2024, 0:39:52, <https://www.hsgac.senate.gov/subcommittees/investigations/hearings/examining-boeings-broken-safety-culture-firsthand-accounts/>.

²² U.S. Senate Committee on Homeland Security & Governmental Affairs Permanent Subcommittee on Investigations, “Examining Boeing's Broken Safety Culture: Firsthand Accounts,” hearing, April 17, 2024, 0:41:05, <https://www.hsgac.senate.gov/subcommittees/investigations/hearings/examining-boeings-broken-safety-culture-firsthand-accounts/>.

described quality managers preventing him from documenting problems or consulting subject matter experts.²³

Despite DOJ's Previous Enforcement Efforts, Serious Safety Problems Continue at Boeing

The Boeing crashes in 2018 and 2019 were the deadliest but not the only Boeing safety failures in recent years. This year alone, several additional serious incidents have occurred. In January 2024, a door plug on a Boeing aircraft blew out during the plane's ascent, "leaving a gaping hole beside a row of seats" and forcing an emergency landing.²⁴ While the incident is still under NTSB investigation, a preliminary report indicates that the months-old aircraft left Boeing's factory without several bolts necessary to secure the door plug.²⁵ In March, following a report of a 737 MAX aircraft experiencing a dangerous uncommanded roll, the Federal Aviation Administration (FAA) required operators of certain Boeing 737 models to inspect certain wiring in their airplanes.²⁶ An investigation determined the cause of the roll was "non-conforming installation of spoiler wire bundles that occurred during production [of the aircraft]."²⁷ And, just last week, on September 26, 2024, the NTSB issued "urgent safety recommendations" for some Boeing 737s, including the 737 MAX, as the 737's flight manual instructs pilots to perform an action in certain instances that "could unintentionally cause loss of control or departure from a runway."²⁸ The NTSB has recommended that Boeing devise an alternate solution and warn pilots of the issue.²⁹

These ongoing safety concerns demonstrate that Boeing executives appear not to have corrected serious safety shortcomings at the company. A former senior manager for Boeing's 737 MAX program has said that Boeing "spen[ds] 90 percent of their energy telling the media things [like] 'renewed quality' and using language in their press releases and their financial statements like 'a renewed safety focus.' And then meanwhile, [he's] hearing from people, 'No, it's actually just as bad or worse in the factory now than it was before.'"³⁰ Boeing's outgoing CEO admitted that Boeing needed to get its "ship in order" and said Boeing had the "bad habit" of prioritizing "the

²³ U.S. Senate Committee on Homeland Security & Governmental Affairs Permanent Subcommittee on Investigations, "Examining Boeing's Broken Safety Culture: Firsthand Accounts," hearing, April 17, 2024, 1:28:02, <https://www.hsgac.senate.gov/subcommittees/investigations/hearings/examining-boeings-broken-safety-culture-firsthand-accounts/>.

²⁴ Washington Post, "After part of a plane's wall blew out, feds ground some Boeings," Ian Duncan, Justine McDaniel, Lori Aratani, Adela Suliman, Andrew Jeong, Dan Rosenzweig-Ziff, Jintak Han and Kelly Kasulis Cho, January 7, 2024, <https://www.washingtonpost.com/travel/2024/01/05/alaska-airlines-plane-emergency-landing-portland/>.

²⁵ National Transportation Safety Board, "Aviation Investigation Preliminary Report," <https://data.nts.gov/carol-repge/api/Aviation/ReportMain/GenerateNewestReport/193617/pdf>.

²⁶ U.S. Department of Transportation, Federal Register Notice, "Airworthiness Directives; The Boeing Company Airplanes," March 11, 2024, <https://www.federalregister.gov/documents/2024/03/11/2024-04956/airworthiness-directives-the-boeing-company-airplanes>.

²⁷ *Id.*

²⁸ CNN, "NTSB issues 'urgent' safety warning for some Boeing 737s, including MAX, in latest blow to struggling planemaker," Pete Muntean, September 26, 2024, <https://www.cnn.com/2024/09/26/business/ntsb-urgent-safety-warning-boeing-737s-max/index.html>.

²⁹ *Id.*

³⁰ Politico, "'I'm Not Trying to Cause a Scene. I Just Want to Get Off This Plane.'" Oriana Pawlyk, February 26, 2024, <https://www.politico.com/news/magazine/2024/02/26/former-boeing-employee-speaks-out-00142948>.

movement of the airplane” rather than the “quality of the product.”³¹ One Boeing machinist said Boeing had not made lasting improvement to its quality control, saying that the company was “overmanaged and undersupported . . . The house is on fire, and they’re concentrated on turning the lights off. They’re not seeing the problem.”³² An individual who served on a panel of aviation experts tasked with evaluating the effectiveness of Boeing’s safety programs said that Boeing’s safety culture had “eroded” following its merger with McDonnell-Douglas in 1996, “under the direct watch of its leaders and board of directors, who have been complicit in and ultimately responsible for its present problems.”³³

The deadly crashes and reporting on safety issues since 2018 have shined a spotlight on Boeing’s corporate culture of prioritizing profits at the expense of safety. The NTSB is engaging in a long-overdue review of Boeing’s safety processes,³⁴ and the FAA has pledged more proactive oversight.³⁵ DOJ must do its part to bring the individuals responsible for Boeing’s safety failures to justice.

DOJ Should Take Action Against Boeing Executives Responsible for Safety Failures

Far too often, our justice system has let corporations and, in particular, corporate executives off the hook for criminal wrongdoing. In October 2023, Senator Warren wrote to Deputy Attorney General Monaco urging DOJ to quickly reverse a new “safe harbor” policy, which would have provided a get-out-of-jail-free card for mergers involving corporate white-collar criminals.³⁶ As a justification for the safe harbor, Deputy Attorney General Monaco explained that, “by giving a path to resolution and declination to companies trying to do the right thing, we are able to identify and prosecute the individuals who are not.”³⁷ Indeed, in a speech earlier this year, Deputy Attorney General Monaco said DOJ’s “first priority has been — and will continue to be — individual accountability. Companies can only act through individuals.”³⁸ As Deputy Attorney General Monaco noted, “[t]he rule of law demands that those most culpable for a company’s

³¹ Tweet by Oriana Pawlyk, March 25, 2024, <https://x.com/Oriana0214/status/1772262022509416494>.

³² Seattle Times, “On Boeing’s factory floor, workers feel ‘overmanaged and undersupported,’” Lauren Rosenblatt and Paige Cornwell, September 1, 2024, <https://www.seattletimes.com/business/boeing-aerospace/on-boeings-factory-floor-workers-feel-overmanaged-and-undersupported/>.

³³ The Guardian, “Boeing’s largest plant in ‘panic mode’ amid safety crisis, say workers and union officials,” Michael Sainato, June 1, 2024, <https://www.theguardian.com/business/article/2024/jun/01/boeing-safety-crisis-response-union-busting>.

³⁴ Politico Pro, “NTSB chair: It’s not just in Boeing’s hands to fix itself,” Oriana Pawlyk, August 6, 2024, <https://subscriber.politicopro.com/article/2024/08/ntsb-chair-its-not-just-in-boeings-hands-to-fix-itself-00172900>.

³⁵ *Id.*

³⁶ Letter from Senator Elizabeth Warren to Attorney General Merrick Garland and Deputy Attorney General Lisa Monaco, October 5, 2023, https://www.warren.senate.gov/imo/media/doc/Letter%20to%20DOJ%20re%20Safe%20Harbor_Final%20105023.pdf.

³⁷ U.S. Department of Justice, “Deputy Attorney General Lisa O. Monaco Announces New Safe Harbor Policy for Voluntary Self-Disclosures Made in Connection with Mergers and Acquisitions,” October 4, 2023, <https://www.justice.gov/opa/speech/deputy-attorney-general-lisa-o-monaco-announces-new-safe-harbor-policy-voluntary-self>.


³⁸ U.S. Department of Justice, “Deputy Attorney General Lisa Monaco Delivers Keynote Remarks at the American Bar Association’s 39th National Institute on White Collar Crime,” March 7, 2024, <https://www.justice.gov/opa/speech/deputy-attorney-general-lisa-monaco-delivers-keynote-remarks-american-bar-associations>.

misconduct are the ones being charged, prosecuted, and convicted.”³⁹ In August 2024, Deputy Attorney General Monaco said that the purpose of DOJ is to “identify the most serious wrongdoers, whether individuals or companies, and ... focus our full energy on holding them accountable.”⁴⁰ This is an admirable goal, but achieving it requires diligent follow-through and action, not lip service. As such, we urge DOJ to thoroughly investigate Boeing’s safety failures, identify any individual executives who are criminally responsible for the company’s concerning safety culture, and, critically, hold them accountable.

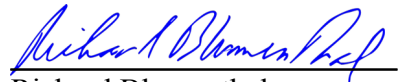
Conclusion

For too long, corporate executives have routinely escaped prosecution for criminal misconduct. This coddling comes at the expense of customer and worker safety, and it must end. We therefore urge you to carefully review the behavior and potential culpability of Boeing’s executives and hold criminally accountable any individuals that have promoted a culture at the company that disregards passenger safety in violation of federal laws and regulations.

Sincerely,



Elizabeth Warren
United States Senator



Richard Blumenthal
United States Senator

³⁹ *Id.*

⁴⁰ U.S. Department of Justice, “Deputy Attorney General Lisa Monaco Delivers Remarks on the Justice Department’s Lawsuit Against RealPage for Algorithmic Pricing Scheme that Harms Millions of Americans,” August 23, 2024, <https://www.justice.gov/opa/speech/deputy-attorney-general-lisa-monaco-delivers-remarks-justice-departments-lawsuit-against>.